

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IZZY L. WHITEHURST,	§
	§
Defendant Below,	§ No. 127, 2022
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§
STATE OF DELAWARE,	§ Cr. ID No. 1110014096 (N)
	§
Appellee.	§

Submitted: April 25, 2022

Decided: June 2, 2022

Before **SEITZ**, Chief Justice; **VALIHURA** and **MONTGOMERY-REEVES**, Justices.

ORDER

After careful consideration of the appellant’s opening brief, the State’s motion to affirm, the record on appeal, and the appellant’s “Motion to Amend; Retract” and “Motion to Retract Opening Brief,” we conclude that the judgment below should be affirmed on the basis of the Superior Court’s order, dated March 30, 2022, denying the appellant’s second motion for postconviction relief as procedurally barred. The appellant has not pleaded any circumstances under Rule 61(d)(2)(i) or (d)(2)(ii) that overcome the procedural bars set forth in Rule 61,¹ nor does he claim that the Superior Court lacked jurisdiction.²

¹ DEL. SUPER. CT. CRIM. R. 61(i).

² *Id.* R. 61(i)(5).

NOW, THEREFORE, IT IS ORDERED that the motion to affirm is GRANTED and the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Chief Justice